

The Wisconsin Department of Transportation adopts an order to amend TRANS 139.03(3)(a), 139.04(3)(b), and 139.05(2)(g) and (8)(a), Wisconsin Administrative Code, relating to motor vehicle trade practices

ORDER ADOPTING RULE**Analysis Prepared by the Wisconsin Department of Transportation**

STATUTORY AUTHORITY: ss. 218.0152(1) and 227.11, Stats.

STATUTES INTERPRETED: ss. 218.0116(1)(cm), (e), (gm), (im)2., (j) and (km), 218.0141 and 218.0144, Stats.

General Summary of Rule. Currently, ch. Trans 139 prohibits motor vehicle dealers from charging a “processing” or “doc” (documentation) fee relating to a vehicle purchase for functions the dealer must perform prior to the vehicle’s delivery. The lone exception to this rule [Trans 139.05(8)(b)] allows a dealer licensee who has contracted with the Department, in accordance with the provisions of s. 341.21, Stats., to charge a purchaser a fee in the amount contained in the contract for the dealer’s services relating to the processing or distribution of an original or renewal registration or a certificate of title. This processing fee is the \$17.50 “Electronic Title/Plate Filing Fee” charged in conjunction with the APPS (Automated Partners in Processing) on-site registration program.

The policy change will eliminate the prohibition on “doc” fees, and allow a dealer to charge a reasonable fee for functions the dealer must perform prior to the vehicle’s delivery, including: performing inspections, collecting and reporting fees and taxes, performing background checks on odometer history, filing registration and title on behalf of purchasers, and purchasing required forms. The change would not impinge upon the dealer’s ability to charge an optional processing fee in conjunction with the APPS program. Motor vehicle dealers are subject to a number of statutes and regulations. A processing fee is not required by law. Any rule change, including allowing a dealer to charge a customer a “doc” fee, would need to be consistent with the applicable statutes and regulations. This may include revising other rules and placing conditions, including full disclosure of the fee, upon a dealer charging a customer “doc” fees.

Fiscal Impact. The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be minimal impact on state revenues or liabilities.

Final Regulatory Flexibility Analysis. This rule will have no adverse impact on small businesses.

Copies of Rule. Copies of this rule can be obtained, without cost, by writing to Adam Boardman, Division of Motor Vehicles, Dealer Section, 4802 Sheboygan Avenue, Room 806, P. O. Box 7911, Madison, WI 53707-7911, or by calling (608) 264-9538. Alternate formats of the rule will be available to individuals upon request.

TEXT OF RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 218.0152(1) and 227.11, Stats., the department of transportation hereby amends a rule interpreting ss. 218.0116(1)(cm), (e), (gm), (im)2., (j) and (km), 218.0141 and 218.0144, Stats., relating to motor vehicle trade practices.

SECTION 1. Trans 139.03(3)(a) is amended to read:

Trans 139.03(3)(a) When the price of a motor vehicle is advertised by a dealer licensee, or a group of dealer licensees are named in a joint advertisement, the advertised price shall include all charges that shall be paid by the purchaser to acquire ownership of the vehicle with the exception of sales tax and title and registration fees. The advertised price does not need to include the amount of the service fee if the advertisement clearly and conspicuously discloses that the advertised price does not include the optional service fee. In the print media, the disclosure of the amount of the service fee or the disclosure that the advertised price does not include the optional service fee shall be printed in not less than 9-point boldface type or not smaller than the largest typeface within the advertisement. In other advertising media, the disclosure of the amount of service fee or the disclosure that the advertised price does not include the optional service fee should be clearly communicated to the intended audience.

SECTION 2. Trans 139.04(3)(b) is amended to read:

Trans 139.04(3)(b) Any additions to or deletions from items contained on the label in par. (a) shall be identified by both description and retail price on a dealer supplemental

price label affixed to the motor vehicle in a clear and conspicuous location. Items to be disclosed on dealer supplemental labels include, but are not limited to, dealer installed optional equipment or accessories, products or services performed by the dealer beyond the manufacturer's presale delivery obligations, a service fee as allowed by s. Trans 139.05(8)(a), and final dealer asking price.

SECTION 3. Trans 139.05(2)(g) and (8)(a) are amended to read:

Trans 139.05(2)(g) Reference price due on delivery and the known components of that price, including but not limited to, cash price, sales tax, license and title fees, downpayment, ~~and trade-in allowance,~~ and a service fee as allowed by s. Trans 139.05(8)(a). Rebates shall be referenced separately by dollar amount and assignment.

(8)(a) ~~Except as provided in par. (b), a~~ A dealer licensee may ~~not~~ assess a purchaser or lessee an additional service fee ~~or charge~~ for completing any sales-related or lease-related vehicle inspection or forms which are required by law or rule if the dealer has made full disclosure of the service fee to the prospective retail customer. The service fee may not be increased after this disclosure but may be reduced. Dealers that choose to charge a purchaser or lessee a service fee shall include the following disclosure on the purchase or lease contract: "A service fee is not required by law, but may be charged to motor vehicle purchasers or lessees for services related to compliance with state and federal laws, verifications and public safety, and must be reasonable." Upon request from a purchaser, the selling dealer shall provide a written disclosure of the services included in this service fee. The Department reserves the right to audit fees to determine whether they are reasonable.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Signed at Madison, Wisconsin, this ____ day of
June, 2002.

THOMAS E. CARLSEN, P.E.
Acting Secretary
Wisconsin Department of Transportation